

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

**STEVEN ROSENBERG, MARK
ROSENBERG, and SHOSHANA
ROSENBERG, as Children and
Representatives of the Estate and Person of
HAROLD ROSENBERG,**

Plaintiffs

v.

**CHAMPLAIN TOWERS SOUTH
CONDOMINIUM ASSOCIATION, INC.,
MORABITO CONSULTANTS, INC., and
SD ARCHITECTS, P.A.**

Defendants.

CIRCUIT CIVIL DIVISION

CASE NO.:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, STEVEN ROSENBERG, MARK ROSENBERG, and SHOSHANA ROSENBERG, as Children and Representatives of the Estate and Person of HAROLD ROSENBERG, sue Defendants, CHAMPLAIN TOWERS SOUTH CONDOMINIUM ASSOCIATION, INC. (Defendant “CTS”), MORABITO CONSULTANTS, INC. (Defendant “Morabito”), and SD ARCHITECTS, P.A. (Defendant “SD Architects”) and state as follows:

INTRODUCTION

1. On June 24, 2021, at approximately 1:30 a.m., the Champlain Towers South condominium building located at 8777 Collins Avenue suffered a catastrophic structural failure and collapsed.

2. The devastation was immediately apparent, and at the time this Complaint is filed there have been 16 confirmed deaths, and at least 145 people are missing and feared to be buried in the rubble.

3. Harold Rosenberg is one of the missing.
4. Although his family still hopes and prays that he is found alive, this action is necessary at this time to ensure all evidence is preserved during this time that Harold is missing and unable to act for himself.
5. It is expected that the death toll will only continue to rise as first responders make their way through the ruins.
6. When the dust finally settles, the Champlain Towers South collapse will be the most devastating and deadly building collapse in United States history.
7. Tragically, the immense destruction of life could have been and should have been avoided.
8. Defendants CTS, Morabito, and SD Architects, as well as, soon-to-be named defendants the Town of Surfside, ignored obvious and shocking warning signs and indications that a catastrophe was imminent.
9. Defendants knew for *years* leading up to this deadly collapse that the Champlain Towers South building posed an immediate and grave threat to the lives of the residents and occupants of the building, yet Defendants failed to take the necessary steps to protect the building's occupants.
10. Sadly, Defendant CTS's repeated and intentional failures to make the necessary life-saving structural repairs were motivated by a desire to save money—Defendant CTS valued money over the lives of the building's occupants.
11. Town of Surfside Building Official, Rosendo Prieto, was explicitly informed of major structural damage at the Champlain Towers South condominium building and was required

by the Miami-Dade County Building Code to take immediate emergency action to protect the lives of the building's residents.

12. Outrageously, Mr. Prieto knowingly ignored his duties and instead of protecting the Champlain Towers South residents, including Harold Rosenberg, told them that the building was safe.

13. Defendants ignored the safety of the building's residents and occupants and are responsible for this unimaginable loss of life and the physical, psychological, and emotional injuries that will plague Plaintiffs and so many others for the rest of their lives.



JURISDICTION, PARTIES AND VENUE

14. This is an action for damages that exceeds the jurisdictional limits of this Court, exclusive of interest, costs, and attorneys' fees.

15. At all times material hereto, Harold Rosenberg was an adult resident of Miami-Dade County, Florida, residing at Champlain Towers South Condominium, Unit 212.

16. Plaintiffs, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg are the three adult children of Harold Rosenberg and are acting as the Representatives of the Estate and Person of Harold Rosenberg.

17. At all times material hereto, Defendant, Champlain Towers South Condominium Association, Inc., was authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of the State of Florida with its principal place of business located at 8777 Collins Avenue, Surfside, Florida, 33154. At all times material to this cause of action, Defendant owned, operated, managed, and/or was otherwise responsible for the Champlain Towers South condominium building that collapsed on June 24, 2021, causing the injuries and damages set forth herein. Service of process over this Defendant may be had through its registered agent, Becker & Poliakoff, P.A., 1 East Broward Blvd., Suite 1800, Ft. Lauderdale, FL 33301 and/or through service upon an officer or agent of this Defendant located at the Defendant's principal place of business.

18. At all times material hereto, Defendant CTS was acting by and through its agents, servants, workmen, employees, ostensible agents, alter egos, and/or Board of Directors who were acting within the course and scope of their agency and/or employment for Defendant.

19. Defendant, Morabito Consultants, Inc., is authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of the State of Maryland with its principal place of business located at 952 Ridgebrook Road, Suite 1700, Sparks, Maryland 21152. At all times material to this cause of action, Defendant was hired, retained, and/or otherwise acting as a professional engineer responsible for inspecting the Champlain Towers South condominium building and certifying its structural integrity. Service of process over this Defendant may be had through its registered agent, Frank Morabito, 206 Via

Condado Way, Palm Beach Gardens, Florida 33418 and/or through service upon an officer or agent of this Defendant located at the Defendant's principal place of business.

20. At all times material hereto, Defendant Morabito was acting by and through its agents, servants, workmen, employees, ostensible agents, and/or alter egos, who were acting within the course and scope of their agency and/or employment for Defendant.

21. At all times material hereto, Defendant, SD Architects, P.A., was authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of the State of Florida with its principal place of business located at 3151 NW 114th Terrace, Coral Springs, FL 33065 At all times material to this cause of action, Defendant was an architect who, upon information and belief, was hired by Defendant CTS for purposes of the planned 40 year remediation and renovation work. Service of process over this Defendant may be had through its registered agent, Michael P. Sands, 3151 NW 114 Terrace, Coral Springs, FL 33065 and/or through service upon an officer or agent of this Defendant located at the Defendant's principal place of business.

22. At all times material hereto, Defendant SD Architects was acting by and through its agents, servants, workmen, employees, ostensible agents, and/or alter egos who were acting within the course and scope of their agency and/or employment for Defendant

23. Harold Rosenberg suffered devastating and permanent physical, psychological, and emotional injuries in the June 24, 2021 collapse of the Champlain Towers South condominium building and is missing and buried in the rubble as a direct and proximate result of the Defendants' conduct.

24. Plaintiffs' action is an action for damages in excess of this Court's jurisdictional limit.

25. The wrongful conduct alleged herein occurred, at least in part, and/or the damages complained of by Plaintiffs were sustained in the county where the above styled Court sits or the Defendants herein reside in the county where the above styled Court sits and thus venue of this action properly lies in this Court pursuant to Florida law.

26. Plaintiffs reside in the State of Florida and/or one or more of the Defendants against whom this action is brought resides in the county where the above styled Court sits and thus venue of this action properly lies in this Court pursuant to Florida law.

27. The Plaintiffs would further show that Defendants, at all times material to this cause of action, through their agents, servants, employees, workmen, alter-egos, officers and/or representatives operated, conducted, engaged in and carried on a business venture in this state and/or maintained an office or agency in this state; committed tortious acts within this state by causing the deadly June 24, 2021 Champlain Towers South building collapse and/or otherwise violating their duties by failing to protect and/or warn Plaintiffs; caused injuries and death, which arose out of the acts and/or omissions which occurred inside and outside the State of Florida during the relevant period of time, at which time Defendants were engaged in solicitation or service activities within the State of Florida, resulting in injuries to the Plaintiffs. Therefore, jurisdiction properly lies in this Court, as to Plaintiffs' action, pursuant to Florida law.

CONDITIONS PRECEDENT

28. All conditions precedent have been satisfied and/or excused.

EVENTS LEADING TO THE DEADLY COLLAPSE

29. Champlain Towers South was a 12-story condominium building located at 8777 Collins Avenue in Surfside, Miami.

30. Construction of the building was completed in 1981 and it contained 136 units, at least 55 of which were reduced to rubble in the June 24, 2021 collapse.

31. Champlain Towers South is one of three related condominium buildings with over 300 combined residences, the others being Champlain Towers North and Champlain Towers East.

32. Champlain Towers South turned 40 years old this year and Defendant CTS was required to obtain a recertification by a professional engineer confirming that the building was structurally safe and sound.

33. Miami-Dade County Code, Section 8-11(f) requires all buildings, including Champlain Towers South, which are 40 years or older to be recertified by the Building Official and then every 10 years thereafter.

34. The fundamental purpose of the required inspection and recertification is to confirm that the building is structurally safe for continued occupancy.

35. It is critical that the structural inspection performed in relation to the recertification process examine the effects of time with respect to deterioration of the structure and determine whether immediate action is necessary to ensure the structural stability of the building and the safety of the residents.

36. The need for a thorough structural inspection and examination, including a quantitative analysis performed through sampling and testing, is especially necessary in the marine climate in which the Champlain Towers South condominium building was located where highly aggressive conditions exist year round.

37. At an absolute minimum, a proper structural inspection and analysis will examine the structure for the following: general alignment, including bulging, settlement, defections, expansion, and contraction; any portions showing distress such as beams, columns, structural

walls, floors, or roofs; surface conditions of the structure which should be specifically examined for cracking, spalling, peeling, signs of moisture penetration & stains; cracks throughout the structure; the general extent of deterioration such as cracking or spalling of concrete or masonry, oxidation of metals, rot or borer attack in wood; previous patching or repairs and the condition of such; and the nature of the present loading conditions and its magnitude. This is explicitly spelled out by the **Minimum Inspection Procedural Guidelines For Building's Structural Recertification Form**:

MINIMUM INSPECTION PROCEDURAL GUIDELINES FOR BUILDING'S STRUCTURAL RECERTIFICATION	
2. PRESENT CONDITION OF STRUCTURE	
a.	General alignment (not good, fair, poor, explain if significant)
1.	Bulging:
2.	Settlement:
3.	Defections:
4.	Expansion:
5.	Contraction:
b.	Portion showing distress (Note, beams, columns, structural walls, floors, roofs, other):
c.	Surface conditions – describe general conditions of finishes, noting cracking, spalling, peeling, signs of moisture penetration & stains:
d.	Cracks – note location in significant members. Identify crack size as HAIRLINE if barely discernable; FINE if less than 1 mm in width; MEDIUM if between 1 and 2 mm in width; WIDE if over 2 mm.:
e.	General extent of deterioration – cracking or spalling of concrete or masonry; oxidation of metals; rot or borer attack in wood:
f.	Previous patching or repairs:
g.	Nature of present loading indicate residential, commercial, or other; estimate magnitude:

38. The Minimum Inspection Procedural Guidelines for Building's Structural Recertification outlines the detailed analysis that must be performed in order to ensure the

structural stability of the building, including thorough inspection requirements and provision of supporting data.

39. The Champlain Towers South condominium building was in serious and significant disrepair, with obvious damage and deterioration to exterior walls and load-bearing structural members and this was known to Defendants for years.

40. In 2018, Defendant CTS retained Defendant Morabito to perform a structural engineering analysis of the building and submit a report in anticipation of the impending 40-year recertification requirement.

41. Defendant Morabito performed a Field Survey including inspection and analysis of the structural integrity of the Champlain Towers South condominium building and rendered a report dated October 8, 2018.

42. The goal of Defendant Morabito's 2018 analysis "was to understand and document the extent of structural issues that require repair and/or remediation in the immediate and near future" in order to "provide a safe and functional infrastructure for the future."

43. The conclusions reached and recommendations given in Morabito's 2018 report were alarming, required immediate remediation, and raised multiple red flags to Defendant CTS, all of which went ignored and unaddressed for years.

44. The structural issues existing at the Champlain Towers South condominium building were obvious and pervasive.

45. Morabito's investigation and analysis found that it was "typical that the concrete slab edges of the balconies were experiencing concrete spalling or cracking" and that they be "further investigated and repaired" in accordance with the requirements of the International Concrete Repair Institute (ICRI).



46. Defendant Morabito further found that nearly half of all balconies of the Champlain Towers South building showed evidence of deterioration that Morabito classified as “a systemic issue” that can only be repaired by removing all of the balcony tile and repairing the damaged concrete surfaces at the top and bottom of the slab. Defendant Morabito advised that “[p]artial/full depth concrete repairs in these areas shall be performed in accordance with the recommendations of ICRI.”

47. Instead of taking Defendant Morabito’s survey and inspection seriously, Morabito’s 2018 report notes that it needed to get access to certain areas of the building in order to inspect the extent of the deterioration but couldn’t because “CTS maintenance was too busy to assist us.”

48. Defendant Morabito’s 2018 inspection further documented “Significant cracking in the stucco exterior façade.”

49. Defendant Morabito’s inspection and analysis of the pool deck area of the building revealed an alarming failure of the waterproofing which was allowing extensive water infiltration and **“major structural damage to the concrete structural slab below these areas.”**

50. Defendant Morabito warned Defendant CTS that *“Failure to replace the waterproofing in the near future will cause the extent of the concrete deterioration to expand exponentially.”*

51. Defendant Morabito informed Defendant CTS that “installation of deck waterproofing on a flat structure is a systemic issue for this building structure.”

52. Defendant CTS ignored Defendant Morabito’s findings for three years and never had the deficient waterproofing and major structural damage to the concrete structural slab below the pool deck repaired despite knowledge that the major structural damage would get exponentially worse.

53. The reason that Defendant CTS chose to ignore the instruction to make this critically important structural repair is sadly obvious—Morabito advised that “the replacement of the existing deck waterproofing will be extremely expensive as removal of the concrete topping slab to gain access to the waterproofing membrane will take time, be disruptive and create a major disturbance to the occupants of this condominium building.”

54. Defendant CTS heartlessly placed the lives of the building’s occupants at risk in order to stave off the inevitable costs of performing the critical repairs despite unquestionably knowing of the grave danger the structural damage posed.

55. Defendant CTS’s despicable decision to value money over the lives of the building’s occupants despite being explicitly informed of the danger was reckless, willful and wanton, and intentionally exposed the vulnerable occupants to the very harm that culminated on June 24, 2021 when the building collapsed and buried helpless occupants under tons of twisted steel and broken concrete.

56. This tragedy and the immense loss of life was completely avoidable and Defendant CTS knew exactly how to avoid it, but simply chose not to for the sake of saving money.

57. Defendant Morabito's inspection and analysis of the building's parking garage revealed even more unacceptable signs of obvious and dangerous structural deterioration.

58. Defendant Morabito advised Defendant CTS that there was ***"Abundant cracking and spalling of varying degrees in the concrete columns, beams, and walls."***



59. Morabito's report further details that ***"Several sizeable spalls were noted in both the topside of the entrance drive ramp and underside of the pool/entrance drive/planter slabs, which included instances with exposed, deteriorating rebar."***

60. Thus, Defendant Morabito found that not only were the structural concrete slabs underneath the pool deck experiencing dramatic and rapid deterioration due to dilapidated and ineffective waterproofing, but that the concrete on the underside of the pool had significant concrete spalling and "exposed, deteriorating rebar."

61. Morabito advised that the “Entrance/Pool deck concrete slabs that are showing distress” must be *“removed and replaced in their entirety.”*

62. Defendant Morabito told Defendant CTS that “the concrete deterioration needs to be repaired in a timely fashion” and “in accordance with the recommendations of ICRI.”

63. Defendant CTS never repaired the significant concrete deterioration despite knowing of the danger it posed.

64. Defendant Morabito’s observations and findings during its 2018 inspection certainly should have spurred Morabito to further examine the structural stability of the Champlain Towers South building by inspecting the sub-surface foundation.

65. This was never done by Defendant Morabito.

66. Defendant Morabito’s report also reveals that Defendant CTS was aware of the significant concrete deterioration and structural issues long before Defendant Morabito’s 2018 inspection and report but, instead of expending the money necessary to sufficiently address the critical structural issues Defendant CTS chose to perform shoddy concrete patchwork in an apparent attempt to delay making the repairs that they undoubtedly knew were necessary.

67. Defendant Morabito’s 2018 inspection “revealed that many of the previous garage concrete repairs are failing resulting in additional concrete cracking, spalling and leaching of calcium carbonate deposits.” Alarming, at the “underside of Entrance/Pool deck where the slab had been epoxy-injected, new cracks were radiating from the originally repaired cracks.”

68. Morabito’s report noted that the “installed epoxy is not continuous as observed from the bottom of the slab, which is evidence of poor workmanship performed by the previous contractor” and were “ineffective in properly repairing the existing cracked and spalled concrete slabs.”



Previously installed and failed injection repairs

69. Instead of performing a full scale repair and/or replacement of the structural concrete, Defendant CTS's attempted to save money by performing ineffective and shoddy spot repairs.

70. Once again, instead of performing the repairs and work known to be critical to the structural stability of the building and necessary to protect the lives of the building's occupants, Defendant CTS ignored the numerous red flags and warnings that a massive structural collapse was imminent.

71. Defendant CTS's numerous and repeated decisions to ignore its obligations to maintain the structural stability of the building and safeguard the vulnerable and unsuspecting occupants was reckless and unforgivable.

72. Defendant Morabito's findings rendered the Champlain Towers South building as an "unsafe" structure under Miami-Dade County Building Code Section 8-5(b)(2)(ii).

73. Despite Champlain Towers South being classified as an unsafe structure under the Miami-Dade County Building Code by virtue of Defendant Morabito's findings that there as major structural damage, neither Defendant CTS nor Defendant Morabito took any action to notify the residents and occupants of the building or otherwise make the building safe for nearly three years.

74. The significant and alarming issues identified in Defendant Morabito's October 2018 Report may have only been compounded and made even more urgent to address quickly by the fact that the Champlain Towers South building had been sinking since the 1990's, potentially compromising the structural stability of the building's foundation, which Defendants CTS and Morabito knew or should have known about upon the exercise of reasonable care.

75. Upon information and belief, Defendant CTS had also received numerous complaints from its residents that recent construction activities next door, at Eight Seven Park, were causing the Champlain Towers South building to tremor and shake, further evidencing the compromised structural integrity of the building. Defendant CTS ignored these reports of shaking and compromised structural integrity even in the face of the 2018 Morabito Report advising of major structural damage.

76. Outrageously, upon information and belief Defendant CTS did not inform the residents of Champlain Towers South of the major structural damage and exponentially worsening concrete damage until approximately April 2021.

77. Instead of timely informing the residents and occupants of the building that Defendant Morabito's inspection and analysis found major structural damage and that the structural safety of the building was compromised, on November 13, 2018, CTS Board Member Mara Chouela forwarded Defendant Morabito's report and accompanying estimates to Town of Surfside Building Official Rosendo Prieto. Notably, Ms. Chouela's email forwarding the Morabito Report to Mr. Prieto contained no message whatsoever and was simply an empty email with the Morabito Report attached.

From: Mara Chouela <mara.chouela@gmail.com>
Sent: Tuesday, November 13, 2018 12:39 PM
To: Rosendo Prieto
Subject: Champlain Tower Sounth
Attachments: Morabito Report Mechanical280.pdf; Morabito Report279.pdf

78. Upon receipt of the October 8, 2018 Morabito Report which explicitly identified “major structural damage” and “abundant” concrete cracking and spalling which rendered the Champlain Towers South building as an “unsafe” structure under Miami-Dade County Building Code Section 8-5(b)(2)(ii), Town of Surfside Building Official Mr. Prieto was required by Building Code Section 8.5(e) to have an inspection conducted to make an independent determination of the building’s structural stability and if deemed to be unsafe, take immediate emergency action to protect the residents and community.

79. Upon information and belief, Town of Surfside and Mr. Prieto took no such action and never had the Champlain Towers South building inspected in response to the October 8, 2018 Morabito Report despite the conclusions of major structural damage and abundant cracking and spalling in the structural concrete. This was in direct violation of the duties placed on the Town of Surfside by the Miami-Dade County Building Code and allowed the residents of Champlain Towers South to continue unknowingly living in an unsafe structure that had major structural damage.

80. On November 13, 2018, just hours after sending the Morabito Report to Mr. Prieto, Ms. Chouela sent Mr. Prieto an email documenting an in-person meeting they had at Mr. Prieto’s office and inviting Mr. Prieto to Defendant CTS’s upcoming November 15, 2018 Board Meeting “to explain the facts of the 40 year inspection.”

On Nov 13, 2018, at 3:30 PM, Mara Chouela <mara.chouela@gmail.com> wrote:

Ross

Thank you so much for having us in your office. We appreciate your time a lot.

We would like to invite you to our board meeting on Tuesday 15 at 7:30 to explain the facts of the 40 year inspection.

Thank you so much!

81. On November 16, 2018, Mr. Prieto sent an email to Town Manager Guillermo Olmedillo stating that he and Assistant Building Officer Mike Pena “were invited and attended the Condo Board / Unit Owner meeting” the night prior and that “it went very well.” Mr. Prieto stated that “The response was very positive from everyone in the room” and that “All main concerns over their forty year recertification process were addressed.”

From: Rosendo Prieto
Sent: Friday, November 16, 2018 10:15 AM
To: Guillermo Olmedillo
Cc: Irina Mocanu ; Mike Pena ; Duncan Tavares
Subject: Meeting Champlain South 8777 Collins Av

Mr. Mgr.:

ABO Pena and myself were invited and attended the Condo Board / Unit Owner meeting at The Champlain Tower South last night and it went very well. The response was very positive from everyone in the room. All main concerns over their forty year recertification process were addressed. This particular building is not due to begin their forty year until 2021 but they have decided to start the process early which I wholeheartedly endorse and wish that this trend would catch on with other properties. If you have any questions please let me know. Thank you.

82. Meeting minutes from the November 15, 2018 Condo Board / Unit Owner meeting that CTS Board Member Mara Chouela invited Mr. Prieto to and which Mr. Prieto and Mr. Pena attended, reflect that Mr. Prieto and Defendant CTS’s Board falsely assured the unit owners that the building was “in very good shape” and that the building was not in danger.

Guest Speaker Building Official of Town of Surfside Mr. Ross Prieto building official of Town of Surfside is presented by Mara Chouela to discuss 40 year certification. Structural engineer report was reviewed by Mr. Prieto although report was not in the format for the 40 year certification he determined the necessary data was collected and it appears the building is in very good shape. The 40 year certification for the building will be due in 2021. Process and timeline discussed regarding the aspects of the 40 year that will

83. The false assurances of safety given by the Town of Surfside and Defendant CTS to the unit owners is utterly outrageous in light of the October 8, 2018 Report by Defendant Morabito which found “major structural damage” and “abundant cracking and spalling” in the concrete columns, beams and walls—a Report that the CTS Board had for over a month and which was directly provided to Mr. Prieto and the Town of Surfside just days before the November 15, 2018 meeting.

84. The false assurances of the building’s safety given and/or condoned by Defendant CTS’s Board were unquestionably false statements of material fact which CTS’s Board knew to be false, which were made and/or condoned with the intent that the building’s unit owners rely on such statements to continue living in the building believing that it was safe. These knowingly false statements resulted in the residents and occupants living in a building they were led to believe was structurally safe when it in fact wasn’t.

85. Following Defendant Morabito’s inspection and the rendering of its October 8, 2018 Report, Defendants CTS and/or Morabito were required to submit a written report to the Town of Surfside certifying that the Champlain Towers South building was structurally safe in conformity with the aforementioned minimum inspection procedural guidelines, pursuant to Miami-Dade County Building Code Section 8-11(f)(iv).

86. Defendants CTS and Morabito never submitted the required report mandated by Miami-Dade County Building Code Section 8-11(f)(iv) prior to the collapse.

87. Instead, in an apparent attempt to wash away its failures in the wake of this tragedy, Defendant Morabito submitted the report required by Miami-Dade County Building Code Section 8-11(f)(iv) at 5:35 p.m. on June 24, 2021, approximately 16 hours after the Champlain Towers South building collapsed.

88. The Section 8.11(f) report that Defendant Morabito submitted after the devastating collapse starkly and noticeably contrasts Morabito's October 8, 2018 Report.

89. The unverified report Defendant Morabito submitted following the collapse mentions *none* of the alarming findings from Morabito's October 8, 2018 Report—there is no reference to the “major structural damage” that would “expand exponentially” if not repaired, nor is there reference to the “abundant cracking and spawling[.]”

90. Defendant Morabito's post-collapse report even removed a photograph of significant and dangerous concrete spalling on a structural support column in the garage which was included in Morabito's October 8, 2018 Report, shown below:



91. The October 8, 2018 Morabito Report that CTS Board Member Mara Chouela forwarded to the Town of Surfside's Building Official, Mr. Prieto, could not possibly qualify as the report mandated by Section 8-11(f)(iv) as the Morabito Report did not certify that the building “is structurally and electrically safe for continued occupancy.” In fact, the Morabito Report

confirmed the opposite, that there was major structural damage which threatened the lives of the residents and occupants.

92. Upon information and belief, Defendant CTS and the Town of Surfside, through Mr. Prieto, concealed the results of Defendant Morabito's 2018 inspection and the recommendations provided in the October 8, 2018 report and chose not to inform the building's residents of the significant and immediate need for structural repairs until years later.

93. Defendant CTS outrageously hid the dangers from the building's residents and allowed them to continue living in a building the residents thought to be safe but which Defendant CTS knew to be imminently and catastrophically dangerous.

94. Defendant CTS's immense, intentional, and repeated failures to make the necessary repairs required to safeguard the residents despite knowing for *years* of the building's dangerous structural condition resulted in this tragedy and the unimaginable suffering that has been inflicted.

95. In a 2021 letter written to the residents of Champlain Towers South, the President of Defendant CTS's Board of Directors, Jean Wodnicki, outright admitted that the work to fix the major structural damage to the building and make the building safe "could have been done or planned for in years gone by. But this is where we are now." There is no question that it should have been done.

96. Although Defendant Morabito identified the significant structural issues in the 2018 inspection and report and advised that the issues should be repaired in a timely fashion, Defendant Morabito unacceptably failed to explain the significance of its findings with respect to the potential for an imminent structural collapse.

97. Defendant Morabito had a responsibility to explain that the structural issues identified presented an immediate and significant risk to the lives of the people in the building, but Morabito failed to do so.

98. Defendant Morabito knew or should have known that the issues identified in the 2018 inspection/analysis and reflected in the October 8, 2018 report rendered the Champlain Towers South condominium building structurally unstable and at risk of a devastating collapse at any moment.

99. Defendant Morabito further should have recognized that the issues identified and observed in the 2018 inspection/analysis required a thorough examination of the building's foundation to examine whether it was structurally safe. Defendant Morabito failed to do this.

100. Defendant Morabito knew or should have known that a failure to advise Defendant CTS that the building was at risk of an imminent collapse and that it should be evacuated until the necessary and life-saving repairs could be made would expose the occupants of the building to an unreasonable and unacceptable risk of harm.

101. Despite this aforementioned knowledge, Defendant Morabito failed to do what was right and chose not to advise that the Champlain Towers South condominium building was at risk of a collapse and further failed to advise that Defendant CTS evacuate the building until the necessary repairs could be made and the structural stability of the building ensured.

102. The Town of Surfside similarly failed to protect the residents of Champlain Towers South from the inevitable catastrophe of a building collapse when Rosendo Prieto received the 2018 Morabito Report informing him of the "major structural damage" that would only get exponentially worse and the "abundant cracking and spalling" to the structural concrete of the building but failed to abide by his duties under the Miami-Dade County Building Code by failing

to have an independent inspection performed and thereafter taking the immediate emergency actions mandated by the Miami-Dade County Building Code.

103. Worse, just days after receiving and reviewing the 2018 Morabito Report, Mr. Prieto falsely told the residents of Champlain Towers South at the November 15, 2018 meeting that the building “is in very good shape.”

104. Defendants’ concerted actions to ignore the findings of massive structural damage to the building and instead mislead the residents into believing that the building was safe resulted in his tragedy.

105. Upon information and belief, Defendant CTS retained Defendant Morabito and Defendant SD Architect in 2020 for purposes of the repair and restoration process.

106. Upon Defendants Morabito’s 2020 retention, Defendant Morabito unquestionably knew that the “major structural damage” Morabito identified in 2018 had not been addressed and had only gotten exponentially worse.

107. Despite knowing that the structural damage and issues identified in 2018 were not addressed, Defendant Morabito still failed to advise Defendant CTS, the building’s residents, or the Town of Surfside that the building was even closer to a catastrophic collapse and was unsafe for occupancy.

108. Defendant SD Architects was an architect retained for purposes of the 2021 remediation work and was responsible for creating plans for the work to be done.

109. In creating the plans, Defendant SD Architects unquestionably learned of the massive structural damage that was planned to be addressed by the remediation and repair work.

110. Despite learning of the major structural damage to the building and the significant risk of collapse in 2020, Defendant SD Architects did nothing to warn the residents that they were

living in an exceedingly unsafe building that was at imminent risk of collapse even though Defendant SD Architects knew or should have known that such a failure to warn the residents of the building would result in catastrophic harm to the residents.

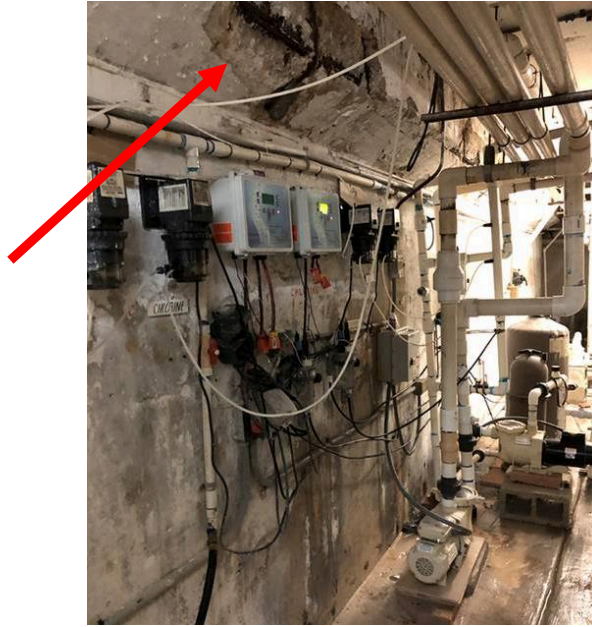
111. Similarly, Defendant SD Architects did nothing to raise concerns over the major structural damage and compromised condition of the building to officials who had the ability to step in and take immediate emergency action to protect the building's residents.

112. Defendant SD Architects also failed to make any examination of the foundation of the Champlain Towers South building and failed to determine whether it was structurally safe.

113. Defendant SD Architects knew or should have known that the Champlain Towers South building had been sinking since the 1990's and that this had the potential to significantly compromise the structural stability of the building's foundation and that a failure to analyze whether the foundation was safe would unacceptably expose the residents of the building to the risk of severe harm or death.

114. Despite this knowledge, Defendant SD Architects never analyzed the foundation as part of its work in creating plans for the 2021 remediation work designed to address the major structural damage of the building.

115. Just days before this unspeakable tragedy a pool contractor hired by Defendant CTS observed severe concrete spalling, exposed and rusted rebar, and standing water in the garage.



116. The June 24, 2021 collapse of the Champlain Towers South condominium building is the most devastating building collapse in United States history. The loss of life and suffering that is only just beginning to unfold is unimaginable. It should have been avoided.

THE TOWN OF SURFSIDE'S UNFORGIVABLE CONDUCT

117. The Town of Surfside bears considerable blame for the unfathomable loss of life and harm that has been inflicted.

118. On June 30, 2021 Plaintiffs provided the appropriate notice of their claims against the Town of Surfside in accordance with Florida Statute 768.28.

119. As soon as the statutory waiting period under Florida Statute 768.28 has elapsed, it is anticipated that the Town of Surfside will be joined as a defendant and will have to answer for their conduct in causing this calamity.

120. Town of Surfside Building Official Rosendo Prieto's utter incompetence and apathy for his safety responsibilities and duties under the Miami-Dade County Building Code is shocking, outrageous, and unforgivable.

121. Mr. Prieto received direct notification that there was major structural damage at the Champlain Towers South building and yet did not perform a single critical action mandated by the Miami-Dade County Building Code which are designed and intended to protect the health and safety of Miami-Dade County's residents.

122. On November 13, 2018, CTS Board Member Mara Chouela forwarded Defendant Morabito's report and accompanying estimates to Town of Surfside Building Official Rosendo Prieto. Notably, Ms. Chouela's email forwarding the Morabito Report to Mr. Prieto contained no message whatsoever and was simply an empty email with the Morabito Report attached.

From: Mara Chouela <mara.chouela@gmail.com>
Sent: Tuesday, November 13, 2018 12:39 PM
To: Rosendo Prieto
Subject: Champlain Tower South
Attachments: Morabito Report Mechanical280.pdf; Morabito Report279.pdf

123. Miami-Dade County Building Code Section 8-5(b)(2)(ii) is clear that a building is classified as an "unsafe structure" if there is "deterioration of the structure or structural parts."

124. The findings of the October 8, 2018 Morabito Report unquestionably resulted in the Champlain Towers South building being classified as an "unsafe structure" under the Miami-Dade County Building Code.

125. Upon receipt of the October 8, 2018 Morabito Report that explicitly identified "major structural damage" and "abundant cracking and spalling" of the structural concrete and which rendered the Champlain Towers South building as an "unsafe structure" under Miami-Dade County Building Code Section 8-5(b)(2)(ii), Town of Surfside Building Official Mr. Prieto was clearly required by Building Code Section 8.5(e) to have an inspection conducted to make an

independent determination of the building's structural stability and if deemed to be unsafe, take immediate emergency action to protect the residents and community.

126. The Town of Surfside and Mr. Prieto had a duty to protect the residents of the Champlain Towers South building upon learning of the major structural damage by immediately conducting an inspection of the building to confirm the findings of the 2018 Morabito Report and thereafter take immediate emergency actions mandated by the Miami-Dade County Building Code.

127. Mr. Prieto outrageously ignored his critical safety obligations and took no such action and never had the Champlain Towers South building inspected in response to the October 8, 2018 Morabito Report despite the conclusions of major structural damage and abundant cracking and spalling in the structural concrete. This was in direct violation of the duties placed on the Town of Surfside by the Miami-Dade County Building Code and allowed the residents of Champlain Towers South to continue unknowingly living in an unsafe structure that had major structural damage.

128. The Miami-Dade County Building Code gave the Town of Surfside and Mr. Prieto authority to order the residents of the Champlain Towers South building to evacuate the building and save their lives. Mr. Prieto chose not to do so.

129. Mr. Prieto was either incomprehensibly incompetent, or completely apathetic towards the safety of the Champlain Towers South residents.

130. On November 13, 2018, just hours after sending the Morabito Report to Mr. Prieto, Ms. Chouela sent Mr. Prieto an email documenting an in-person meeting they had at Mr. Prieto's office and inviting Mr. Prieto to Defendant CTS's upcoming November 15, 2018 Board Meeting "to explain the facts of the 40 year inspection."

On Nov 13, 2018, at 3:30 PM, Mara Chouela <mara.chouela@gmail.com> wrote:

Ross

Thank you so much for having us in your office. We appreciate your time a lot.

We would like to invite you to our board meeting on Tuesday 15 at 7:30 to explain the facts of the 40 year inspection.

Thank you so much!

131. Mr. Prieto attended the November 15, 2018 Condo Board / Unit Owner meeting where he had yet another opportunity to fulfill his responsibilities as Building Official and inform the residents that they were living in a building that was dangerous, had major structural damage, and was classified as an unsafe structure under the applicable Miami-Dade County Building Code. He rejected this opportunity.

132. On November 16, 2018, Mr. Prieto sent an email to Town Manager Guillermo Olmedillo stating that he and Assistant Building Officer Mike Pena “were invited and attended the Condo Board / Unit Owner meeting” the night prior and that “it went very well.” Mr. Prieto stated that “The response was very positive from everyone in the room” and that “All main concerns over their forty year recertification process were addressed.”

From: Rosendo Prieto
Sent: Friday, November 16, 2018 10:15 AM
To: Guillermo Olmedillo
Cc: Irina Mocanu ; Mike Pena ; Duncan Tavares
Subject: Meeting Champlain South 8777 Collins Av

Mr. Mgr.:

ABO Pena and myself were invited and attended the Condo Board / Unit Owner meeting at The Champlain Tower South last night and it went very well. The response was very positive from everyone in the room. All main concerns over their forty year recertification process were addressed. This particular building is not due to begin their forty year until 2021 but they have decided to start the process early which I wholeheartedly endorse and wish that this trend would catch on with other properties. If you have any questions please let me know. Thank you.

133. Meeting minutes from the November 15, 2018 Condo Board / Unit Owner meeting reflect that Mr. Prieto and Defendant CTS's Board falsely and despicably assured the unit owners that the building was "in very good shape" and that the building was not in danger.

Guest Speaker Building Official of Town of Surfside Mr. Ross Prieto building official of Town of Surfside is presented by Mara Chouela to discuss 40 year certification. Structural engineer report was reviewed by Mr. Prieto although report was not in the format for the 40 year certification he determined the necessary data was collected and it appears the building is in very good shape. The 40 year certification for the building will be due in 2021. Process and timeline discussed regarding the aspects of the 40 year that will

134. The false assurances of safety given by the Town of Surfside Building Official Rosendo Prieto to the unit owners are utterly outrageous in light of the October 8, 2018 Report by Defendant Morabito which found "major structural damage" and "abundant cracking and spalling" in the concrete columns, beams and walls—a report that Mr. Prieto received and reviewed just days before the November 15, 2018 meeting.

135. Mr. Prieto could have saved the residents from this tragedy by informing them at the November 15, 2018 meeting that the building was dangerously unsafe and that immediate action must be taken and that he had no choice but to do so under the obligations imposed on him by the Miami-Dade County Building Code. Instead, he chose to mislead the residents into unknowingly living in a building at risk of imminent collapse.

136. The Town of Surfside's actions, through Mr. Prieto, exhibited a complete and callous disregard for the health, safety, and lives of the Champlain Towers South residents and are completely unforgivable.

137. As a direct and proximate result of the Defendants' careless, negligent, grossly negligent, reckless, willful and wanton, and/or intentional conduct, as described herein, Harold Rosenberg suffered catastrophic and potentially fatal injuries and as a result of the collapse

suffered catastrophic physical injuries, intense and unimaginable pain and suffering, and lost wages.

138. Harold Rosenberg is missing and buried in the rubble. Plaintiffs hope and pray that he is found alive, but take this immediate action to ensure that all evidence is properly preserved during this critical time that Harold cannot act for himself as a result of Defendants' actions.

COUNT I – NEGLIGENCE

**STEVEN ROSENBERG, MARK ROSENBERG, and SHOSHANA ROSENBERG, as
Children and Representatives of the Estate and Person of HAROLD ROSENBERG**

**v.
CHAMPLAIN TOWERS SOUTH CONDOMINIUM ASSOCIATION, INC.**

139. Plaintiffs hereby re-allege and re-assert paragraphs 1-138 the same as though fully set forth herein.

140. Defendant CTS had a duty and responsibility to maintain the Champlain Towers South condominium building in a structurally safe condition and to act reasonably to address any structural issues or concerns noticed or brought to its attention.

141. Pursuant to Miami-Dade County Building Code Section 8.11(a), Defendant CTS had a duty to maintain the Champlain Towers South condominium building in a safe condition.

142. Defendant CTS had a duty to safeguard the residents and occupants of the Champlain Towers South condominium building, including Plaintiffs, and to protect them from foreseeable harm.

143. Defendant CTS had a duty to warn the residents and occupants of the Champlain Towers South condominium building, including Plaintiffs, of any known dangers existing at the building which could foreseeably place the residents and occupants at risk of harm.

144. Plaintiffs were business invitees of Defendant CTS and as such were owed the highest duty of care.

145. Defendant CTS miserably and intentionally failed its aforementioned duties and as a result, the most devastating building collapse in United States history occurred on June 24, 2021.

146. The deaths, catastrophic injuries, and damages suffered by Plaintiffs' decedents and Plaintiffs were caused by the negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant CTS, acting by and through its agents, servants, workmen, employees, ostensible agents, and/or alter egos, both generally and in the following particular respects:

- a. Knowingly placing the residents and occupants of the Champlain Towers South condominium building at grave and immediate risk of harm;
- b. Failing to maintain the Champlain Towers South condominium building in a structurally safe and sound condition;
- c. Failing to maintain the Champlain Towers South condominium building in a structurally safe and sound condition despite obvious and known structural damage and deterioration to the building;
- d. Failing to make the structural repairs necessary to ensure the structural stability of the Champlain Towers South condominium building;
- e. Failing to make the structural repairs necessary to ensure the structural stability of the Champlain Towers South condominium building despite being explicitly told that they must be made urgently;
- f. Ignoring the obvious structural damage and deterioration to the building;
- g. Failing to heed the warnings and recommendations given in regards to the structural integrity of the building;
- h. Failing to heed the warnings and recommendations given in regards to the structural integrity of the building despite knowing that such a failure would expose the residents and occupants of the building to the unreasonable and unacceptable risk of serious harm;
- i. Failing to adequately inspect the property and its structural elements to ensure that the building was structurally safe;
- j. Failing to undertake repairs and remediation work necessary to ensure the structural stability of the building;

- k. Intentionally deciding to forego critical structural repairs in an attempt to save money;
- l. Failing to perform appropriate testing to ensure that the structural concrete members of the building had sufficient strength and/or were otherwise sufficiently structurally safe;
- m. Performing inadequate and ineffective repairs to the structural concrete in the building;
- n. Failing to evacuate the building until such time that the necessary structural repairs could be made;
- o. Failing to warn the residents and occupants of the building that Defendant had identified and/or been notified of significant structural damage to the building;
- p. Failing to warn the residents and occupants that the building was not structurally safe;
- q. Concealing the results of the 2018 report from the residents and occupants of the building;
- r. Permitting the structural elements of the building to degrade and deteriorate to such an extent that the collapse occurred;
- s. Permitting the structural elements of the building to degrade and deteriorate to such an extent that the collapse occurred despite being explicitly told that repairs were immediately necessary;
- t. Allowing residents and people to occupy the building despite knowing of the significant structural damage and deterioration of the building;
- u. Failing to hire and/or retain professionals to perform the necessary repair and/or remediation work related to the significant structural damage Defendant was aware of;
- v. Failing to hire and/or retain professionals to perform the necessary repair and/or remediation work related to the significant structural damage Defendant was aware of despite knowing that such a failure would expose the residents and occupants of the building to the unreasonable and unacceptable risk of severe harm;
- w. Failing to repair the significant damage and deterioration to the structural concrete underneath the pool deck;

- x. Failing to repair the significant damage and deterioration to the structural concrete underneath the pool deck despite being explicitly informed that it presented a major structural problem;
- y. Hiring and/or employing inadequately trained inspectors who failed to detect the significant extent of the structural damage and that the building was at an imminent threat to collapse;
- z. Hiring and/or employing inadequately trained and/or incapable repair personnel to repair the damage in the structural concrete;
- aa. Violating the Miami-Dade County Building Code;
- bb. Knowingly violating the Miami-Dade County Building Code;
- cc. Breaching its duties under the Restatement (Second) of Torts;
- dd. Failing to safeguard and protect the residents and occupants of the building despite knowing of the significant structural damage to the building;
- ee. Failing to repair the waterproofing under the pool deck despite knowing that it was insufficient and causing significant damage and deterioration to the structural concrete slab below;
- ff. Ignoring countless warning signs and red flags that the building was not structurally safe and was at an immediate risk of collapse;
- gg. Failing to develop and implement a policy, procedure, and/or protocol to identify and timely address structural damage and deterioration;
- hh. Choosing profits over the safety of the residents and occupants of the building.

147. Defendant CTS's conduct, as described above, demonstrated a willful and wanton disregard for the safety and health of the residents and occupants of the Champlain Towers South condominium building, including Plaintiffs' decedents, and for the citizens of Surfside.

148. By reason of the carelessness, negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant CTS, as aforesaid, Plaintiffs' decedents were caused to sustain the serious and permanent catastrophic injuries and death as set forth above.

149. By conducting itself as set forth above, Defendant's acts and/or omissions were a substantial factor in, a factual cause of, and/or increased the risk of harm to Plaintiffs' decedents.

WHEREFORE, Plaintiffs, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg, as Children and Representatives of the Estate and Person of Harold Rosenberg, demand judgment against Defendant Champlain Towers South Condominium Association, Inc. in an amount in excess of this Court's jurisdictional threshold in compensatory damages, delay damages, punitive damages, interest and allowable costs of suit and bring this action to recover same.

COUNT II – NEGLIGENCE

**STEVEN ROSENBERG, MARK ROSENBERG, and SHOSHANA ROSENBERG, as
Children and Representatives of the Estate and Person of HAROLD ROSENBERG**

v.

MORABITO CONSULTANTS, INC.

150. Plaintiffs hereby re-allege and re-assert paragraphs 1-138 the same as though fully set forth herein.

151. Defendant Morabito had a duty to adequately and thoroughly inspect the Champlain Towers South condominium building for any and all signs of structural damage and deterioration.

152. Defendant Morabito had a duty to determine whether the Champlain Towers South condominium building was structurally safe and sound and fit for continued occupancy.

153. Defendant Morabito had a duty to ensure that the results of its structural inspection and analysis were adequately and clearly communicated to Defendant CTS.

154. Defendant Morabito had a duty to ensure that the implications and potential consequences of the findings of its inspection and analysis were thoroughly and adequately communicated to Defendant CTS.

155. Defendant Morabito had a duty to determine and analyze the risk of an imminent collapse and clearly communicate the results of such an analysis and determination to Defendant CTS.

156. Defendant Morabito had a duty to take action to ensure that appropriate corrective measures were put into place following any inspection and analysis that determined the Champlain Towers South condominium building was not structurally safe, for the safety of the residents and occupants in the building.

157. Upon being retained in 2020 and observing that *none* of the major structural damage identified in its 2018 report had been addressed and knowing that it had only gotten exponentially worse, Defendant Morabito had an unquestionable duty to notify Defendant CTS and the residents that the building was at an imminent risk of collapse and immediate action needed to be taken.

158. Defendant Morabito failed these aforementioned duties and as a result, the Champlain Towers South condominium building collapsed on June 24, 2021.

159. The deaths, catastrophic injuries, and damages suffered by Plaintiffs' decedents and Plaintiffs were caused by the negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant Morabito, acting by and through its agents, servants, workmen, employees, ostensible agents, and/or alter egos, both generally and in the following particular respects:

- a. Failing to conduct a thorough and adequate structural inspection of the Champlain Towers South building;
- b. Failing to identify significant structural damage and deficiencies during inspection of the Champlain Towers South building;
- c. Failing to determine or analyze whether the Champlain Towers South building was structurally safe and fit for continued occupancy;
- d. Failing to determine or analyze whether the Champlain Towers South building was structurally safe and fit for continued occupancy despite

knowing that such a failure would expose the residents and occupants of the building to the unreasonable and unacceptable risk of severe harm;

- e. Failing to adequately analyze the risks and dangers presented by the significant structural damage and deterioration identified during its inspection;
- f. Failing to adequately communicate the risks and dangers presented by the significant structural damage and deterioration identified in its inspection to Defendant CTS;
- g. Failing to recognize that the Champlain Towers South building was at an imminent risk of collapse;
- h. Failing to advise that the Champlain Towers South building was at an imminent risk of collapse;
- i. Failing to inform Defendant CTS that the structural repairs had to be made immediately otherwise a collapse could occur;
- j. Failing to employ competent and sufficiently trained inspectors and engineers;
- k. Failing to adequately and thoroughly explain to Defendant CTS the consequences and ramifications of a failure or refusal to fix the significant structural damage and deficiencies identified in the inspection;
- l. Failing to advise and/or demand that the building be evacuated until such time that the significant structural damage was repaired and/or otherwise addressed;
- m. Failing to adequately warn Defendant CTS and the residents and occupants, including Plaintiffs, of the imminent threat posed by the significant structural damage observed;
- n. Failing to demand and/or otherwise ensure that the structural damage was appropriately addressed and/or repaired;
- o. Failing to conduct a proper structural engineering analysis of the Champlain Towers South building;
- p. Failing to conduct a structural analysis of the foundation of the Champlain Towers South building despite knowing of the major structural damage that was clearly visible during its 2018 inspection;
- q. Failing to urgently inform Defendant CTS and the residents that immediate emergency action must be taken to protect the lives of the building's

residents upon being retained again in 2020 and learning that none of the major structural damage identified in 2018 had been fixed;

- r. Failing to recognize that the Champlain Towers South building had been sinking since at least the 1990's and that this sinking potentially compromised the structural integrity of the building's foundation;
- s. Failing to insist that the major structural damage identified in 2018 be repaired immediately or otherwise evacuate the residents of the building;
- t. Violating the Miami-Dade County Building Code;
- u. Knowingly violating the Miami-Dade County Building Code;

160. Defendant Morabito's conduct, as described above, demonstrated a willful and wanton disregard for the safety and health of the residents and occupants of the Champlain Towers South condominium building, including Plaintiffs' decedents, and for the citizens of Surfside.

161. By reason of the carelessness, negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant Morabito, as aforesaid, Plaintiffs' decedents were caused to sustain the serious and permanent catastrophic injuries and death as set forth herein.

162. By conducting itself as set forth above, Defendant's acts and/or omissions were a substantial factor in, a factual cause of, and/or increased the risk of harm to Plaintiffs' decedents.

WHEREFORE, Plaintiffs, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg, as Children and Representatives of the Estate and Person of Harold Rosenberg, demand judgment against Defendant Morabito Consultants, Inc. in an amount in excess of this Court's jurisdictional threshold in compensatory damages, delay damages, punitive damages, interest and allowable costs of suit and bring this action to recover same.

COUNT III – NEGLIGENCE

**STEVEN ROSENBERG, MARK ROSENBERG, and SHOSHANA ROSENBERG, as
Children and Representatives of the Estate and Person of HAROLD ROSENBERG**

**v.
SD ARCHITECTS, P.A.**

163. Plaintiffs hereby re-allege and re-assert paragraphs 1-138 the same as though fully set forth herein.

164. Upon information and belief, Defendant SD Architects learned of the major structural damage that the Champlain Towers South building suffered from upon Defendant's retention to create architectural plans for the 2021 planned remediation work.

165. Upon learning of the major structural damage, Defendant SD Architects had a duty to determine whether the Champlain Towers South condominium building was safe for continued occupancy.

166. Defendant SD Architects had a duty to determine whether the Champlain Towers South building was at risk of collapse and, upon making said determination inform Defendant CTS and the residents of the risk of collapse caused by the major structural damage and/or alert officials who could take emergency action to protect the lives of the residents.

167. Defendant SD Architects had a duty to determine whether the sinking of the Champlain Towers South building, which Defendant knew or should have known was occurring since at least the 1990's, had structurally compromised the foundation of the building.

168. Defendant SD Architects had a duty to determine and analyze the risk of an imminent collapse and clearly communicate the results of such an analysis and determination to Defendant CTS.

169. Defendant SD Architects had a duty to take action to ensure that appropriate corrective measures were put into place after learning of the major structural damage to the Champlain Towers South building.

170. Upon being retained in 2020 and observing that *none* of the major structural damage identified by Defendant Morabito in 2018 had been addressed and knowing that it had only gotten exponentially worse, Defendant SD Architects had an unquestionable duty to notify Defendant CTS and the residents that the building was at an imminent risk of collapse and immediate action needed to be taken.

171. Defendant SD Architects failed these aforementioned duties and as a result, the Champlain Towers South condominium building collapsed on June 24, 2021.

172. The deaths, catastrophic injuries, and damages suffered by Plaintiffs' decedents and Plaintiffs were caused by the negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant SD Architects, acting by and through its agents, servants, workmen, employees, ostensible agents, and/or alter egos, both generally and in the following particular respects:

- a. Failing to conduct a thorough and adequate structural analysis of the Champlain Towers South building;
- b. Failing to determine or analyze whether the Champlain Towers South building was safe for continued occupancy;
- c. Failing to determine or analyze whether the Champlain Towers South building was safe for continued occupancy despite knowing that such a failure would expose the residents and occupants of the building to the unreasonable and unacceptable risk of severe harm;
- d. Failing to adequately analyze the risks and dangers presented by the significant structural damage and deterioration identified by Morabito and learned of by Defendant SD Architects upon its retention;
- e. Failing to adequately communicate the risks and dangers presented by the significant structural damage and deterioration to Defendant CTS;

- f. Failing to recognize that the Champlain Towers South building was at an imminent risk of collapse;
- g. Failing to advise that the Champlain Towers South building was at an imminent risk of collapse;
- h. Failing to inform Defendant CTS that immediate emergency action must be taken to protect the residents from a catastrophic collapse;
- i. Failing to employ competent and sufficiently trained personnel;
- j. Failing to reach a determination as to the safety of the building's foundation;
- k. Failing to reach a determination as to the safety of the building's foundation even though Defendant knew or should have known that the building was sinking since at least the 1990's and that this sinking could significantly compromise the safety of the building;
- l. Failing to advise and/or demand that the building be evacuated until such time that the significant structural damage was repaired and/or otherwise addressed;
- m. Failing to adequately warn Defendant CTS and the residents and occupants, including Plaintiffs, of the imminent threat posed by the significant structural damage learned of upon its retention;
- n. Failing to demand and/or otherwise ensure that the structural damage was appropriately addressed and/or repaired;
- o. Failing to urgently inform Defendant CTS and the residents that immediate emergency action must be taken to protect the lives of the building's residents upon being retained again in 2020 and learning that none of the major structural damage identified by Morabito in 2018 had been fixed;
- p. Failing to insist that the major structural damage that existed be repaired immediately or otherwise evacuate the residents of the building;
- q. Violating the Miami-Dade County Building Code;
- r. Knowingly violating the Miami-Dade County Building Code;

173. Defendant SD Architect's conduct, as described above, demonstrated a willful and wanton disregard for the safety and health of the residents and occupants of the Champlain Towers South condominium building, including Plaintiffs' decedents, and for the citizens of Surfside.

174. By reason of the carelessness, negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendant SD Architects, as aforesaid, Plaintiffs' decedents were caused to sustain the serious and permanent catastrophic injuries and death as set forth herein.

175. By conducting itself as set forth above, Defendant's acts and/or omissions were a substantial factor in, a factual cause of, and/or increased the risk of harm to Plaintiffs' decedents.

WHEREFORE, Plaintiffs, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg, as Children and Representatives of the Estate and Person of Harold Rosenberg, demand judgment against Defendant Morabito Consultants, Inc. in an amount in excess of this Court's jurisdictional threshold in compensatory damages, delay damages, punitive damages, interest and allowable costs of suit and bring this action to recover same.

COUNT IV – WRONGFUL DEATH

**STEVEN ROSENBERG, MARK ROSENBERG, and SHOSHANA ROSENBERG, as
Children and Representatives of the Estate and Person of HAROLD ROSENBERG**

**v.
ALL DEFENDANTS**

176. Plaintiffs hereby re-allege and re-assert paragraphs 1-138 the same as though fully set forth herein.

177. Harold Rosenberg is missing and buried under the collapsed Champlain Towers South building, and Plaintiffs hope and pray that he is found alive but take this immediate action to protect Harold's rights in the event that his family's worst fears come true and he does not survive this horrific collapse.

178. Plaintiffs' last contact with their father, Harold Rosenberg, was prior to the collapse and he was known to be in his residence, Unit 212 of the Champlain Towers South building at the time of the catastrophe.

179. Given the location of his residence, Harold Rosenberg is likely located at the very bottom of the mountain of rubble that search and rescue personnel have only begun to chip away at.

180. Search and rescue personnel have pulled only the deceased from the rubble and have neither seen nor heard any signs of life within the pile.

181. Hope is dwindling by the day.

182. Harold Rosenberg is survived by his children, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg.

183. Plaintiffs bring this claim under Florida's Wrongful Death Act, F.S.A. § 768.16, *et seq.* for the benefit of Harold Rosenberg's survivors and estate for all damages as specified in the Wrongful Death Act caused by the injury resulting in death.

184. By reason of the death of Harold Rosenberg, his beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance and mental pain and suffering.

185. As a direct and proximate result of the foregoing, decedent's survivors incurred or have been caused to incur and pay large and various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of their death and to incur various funeral, burial and estate and administration expenses for which Plaintiffs are entitled to compensation in this proceeding.

186. Plaintiffs claim on behalf of the Estate of Harold Rosenberg all damages suffered by the Estate by reason of the death of Harold Rosenberg, including without limiting the generality of the following: severe injuries to Harold Rosenberg, which resulted in his death; the anxiety,

horror, fear of impending death, mental disturbance, pain, suffering, and other intangible losses which Harold Rosenberg suffered prior to his death; the loss of future earning capacity suffered by Harold Rosenberg from the date of his death until the time in the future that he would have lived had he not died as a result of injuries sustained; the loss and total limitation and deprivation of his normal activities, pursuits, and pleasures from the date of his death until such time in the future as he would have lived had he not died as a result of the injuries sustained by reason of the carelessness, negligence, carelessness, gross negligence, recklessness, outrageous and willful and wanton conduct of Defendants as described herein.

WHEREFORE, Plaintiffs, Steven Rosenberg, Mark Rosenberg, and Shoshana Rosenberg, as Children and Representatives of the Estate and Person of Harold Rosenberg, demand judgment against Defendants, Champlain Towers South Condominium Association, Inc., Morabito Consultants, Inc., and SD Architects, P.A. in an amount in excess of this Court's jurisdictional threshold in compensatory damages, delay damages, punitive damages, interest and allowable costs of suit and bring this action to recover same.

REQUEST FOR RELIEF

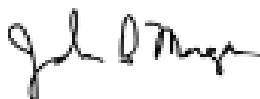
WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants as follows:

1. For an award of damages, including nominal and compensatory damages, including past and future pain and suffering, past and future treatment costs, loss of support and consortium, and other amounts as allowed by law and in an amount to be determined;
2. For an award of punitive damages as allowed by law and in an amount to be determined;
3. For prejudgment interest on all amounts awarded; and
4. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

The undersigned hereby demands a jury trial as to all issues so triable.

Date: June 30, 2021



MORGAN & MORGAN, P.A.

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Keith R. Mitnik, Florida Bar No. 436127

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MORGAN & MORGAN, P.A.

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(Pending Admission *Pro Hac Vice*)

SALTZ MONGELUZZI & BENDESKY P.C.

Robert J. Mongeluzzi, PA Bar #36283

Jeffrey P. Goodman, PA Bar #309433

Samuel B. Dordick, PA Bar #322647

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